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Gloria D. Gray, Chairwoman
Board of Directors
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

Re: Strong Opposition to MWD "Backstopping" IID's Drought Contingency Plan Participation;
Violation of California Environmental Quality Act

Dear Chairwoman Gray:

Last week, the Imperial Irrigation District (IID) Board of Directors provided you, as the Chairwoman of the Board of Directors of the Metropolitan Water District of Southern California (MWD), with our letter expressing IID's strong opposition to the efforts of MWD to participate in the Lower Basin Drought Contingency Plan (DCP) on behalf of California without the participation of IID, California's largest Colorado River contractor, senior in rights to MWD. IID hoped that our strong opposition to MWD's proposed action on the DCP would cause your Board to reconsider scheduling this item for action at your meeting tomorrow.

In light of this item moving forward, IID has no alternative but to inform MWD that the proposed action by MWD violates the California Environmental Quality Act (CEQA), California Public Resources Code sections 21000 *et seq.* The board memorandum prepared for this item seeks authorization for MWD to sign the DCP on behalf of other California contractors, which will include not yet identified "conforming revisions" to the interstate and intrastate agreements, but to be "in a form reviewed and approved by the General Counsel." The board memorandum then attempts an analysis under CEQA that the proposed action "would authorize moving forward with intrastate implementing agreements with those California Contractors who choose to participate, which represents *only a minor modification* to what was authorized in December 2018" and, therefore, concludes that "the previously asserted CEQA exemptions are still applicable." Yet, such a conclusion is premature and cannot possibly be reached when the new project has not been identified. The analysis assumes "only a minor modification" is required, but that modification has yet to be drafted. The potential impacts of that modification, therefore, cannot now be adequately analyzed under CEQA.

MWD is responsible for having adequate documents and findings under CEQA. (See CEQA Guidelines section 15020.) It is an unbelievable assumption in the board memorandum that only one minor modification will be needed for a lower priority water rights holder to sign multiple agreements on behalf of a senior priority water rights holder. If it were even lawful for one water rights priority to speak on behalf of another, a question raised by MWD's proposal, the board memorandum wholly fails to identify and analyze the far-reaching consequences and environmental impacts that can occur as a result. MWD proposes to agree to, among other things, specific rules and regulations affecting the storage of conserved water and the creation, as well as the forbearance of the use of such water, on behalf of other California contractors. It is impossible, without the new project identified by the yet to be drafted edits proposed by MWD to accomplish this, to know whether the CEQA analysis and conclusion to use the previously made exemptions in the board memorandum is adequate.

Without IID's consent or participation in the DCP, the "project" of a MWD "go it alone" DCP is not the same "project" as was previously approved. It goes without saying that an "accurate stable and finite project description is the *sine qua non*" of the CEQA process. (See *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) By changing – in a way that the public cannot readily understand or see – the project description of the DCP at the last moment, MWD has violated both the letter and spirit of CEQA.

Finally, as indicated in the letter to you from last week, IID is not seeking to delay the DCP process to gain leverage or otherwise modify the terms of the DCP for IID's advantage, either at the expense of MWD or at the expense of other parties to the DCP. Instead, IID is simply seeking to ensure that in moving forward with the DCP, we do not ignore the very real problems created at the Salton Sea. All parties on the Colorado River acknowledge the need to address the Salton Sea in a productive manner. IID only requests that we address the Salton Sea *before* proceeding with the DCP rather than "kicking the can down the road" one more time.

IID looks forward to a positive response from MWD prior to your meeting tomorrow.

Sincerely,



Henry Martinez
General Manager

cc:

Commissioner Burman, USBR
Robert Snow, DOI
Peter Nelson, CRB Chairman
John Powell, Jr., CVWD
Charles Van Dyke, PVID
Edward Paget, City of Needles